

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-16-29-D
)	(No. CIV-19-939-D)
KEN EJIMOFOR EZEAH,)	
)	
Defendant.)	

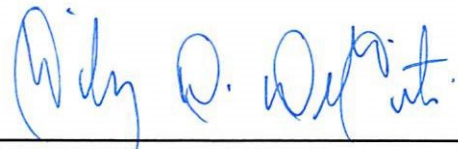
ORDER

Before the Court is Defendant Ken Ejimofor Ezeah’s Petition for Certificate of Appealability [Doc. No. 357]. Defendant seeks relief from the Court’s October 12, 2022 Order that dismissed Defendant’s earlier motions [Doc. Nos. 350-55] for lack of jurisdiction. *See* 10/12/22 Order [Doc. No. 356]. Although Defendant invoked Fed. R. Civ. P. 60(b), the Court concluded that Defendant’s motions were not “true” Rule 60(b) motions but rather were attempts to file a successive § 2255 petition. *See Spitznas v. Boone*, 464 F.3d 1213, 1216 (10th Cir. 2006). Thus, because Defendant did not obtain the court of appeals’ authorization to file another § 2255 petition, the Court lacked jurisdiction to consider his motions. *See* 28 U.S.C. § 2244(b)(3).

Defendant seeks to appeal the Court’s October 12, 2022 Order. In light of the Court’s determination that it lacked jurisdiction to consider Defendant’s motions, Defendant must first obtain a certificate of appealability (“COA”) before the appeal may continue. 28 U.S.C. § 2253(c)(1); *Spitznas*, 464 F.3d at 1217-18 (10th Cir. 2006). A COA may issue only upon “a substantial showing of the denial of a constitutional right.” *See* 28

U.S.C. § 2253(c)(2). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Upon consideration, the Court finds that the requisite standard is not met in this case. Therefore, a COA will be **DENIED**.

IT IS SO ORDERED this 16th day of November, 2022.



TIMOTHY D. DeGIUSTI
Chief United States District Judge